

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor,

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

DONALD A. BENJAMIN,

Defendant.

Adv. Pro. No. 10-04621 (SMB)

NOTICE OF MEDIATION REFERRAL AND MEDIATOR SELECTION

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by plaintiff Irving H. Picard (the “Trustee”), as trustee for the

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in the above-captioned adversary proceeding on December 1, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

Pursuant to the Avoidance Procedures, the Trustee and Defendant may jointly agree to enter mediation prior to or upon completion of discovery without further court order. Avoidance Procedures, ¶ 5A. Through this Notice of Mediation Referral and Mediator Selection, the Trustee and Defendant (the “Parties”) hereby state that discovery has closed in the above-captioned adversary proceeding and agree to be referred to mandatory mediation at this time.

Further, pursuant to the Avoidance Procedures and the Order, the Parties hereby mutually select the Honorable Allen Hurkin-Torres (Ret.) to act as Mediator in this matter.² The Parties further agree to contact the Honorable Allen Hurkin-Torres (Ret.) as soon as practicable after this Notice of Mediator Selection is filed with the Court.

The Parties further agree that no person shall act as Mediator if that person, or that person’s law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

² The Parties note that Honorable Allen Hurkin-Torres (Ret.) is not on the Register of Mediators for the United States Bankruptcy Court for the Southern District of New York, but both parties have consented to use Honorable Allen Hurkin-Torres (Ret.).

Dated: New York, New York
September 21, 2020

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Liquidation of Bernard L. Madoff
Investment Securities LLC and the
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